

GOVERNMENT OF THE DISTRICT OF COLUMBIA



**Office of the Deputy Mayor for
Planning and Economic Development**

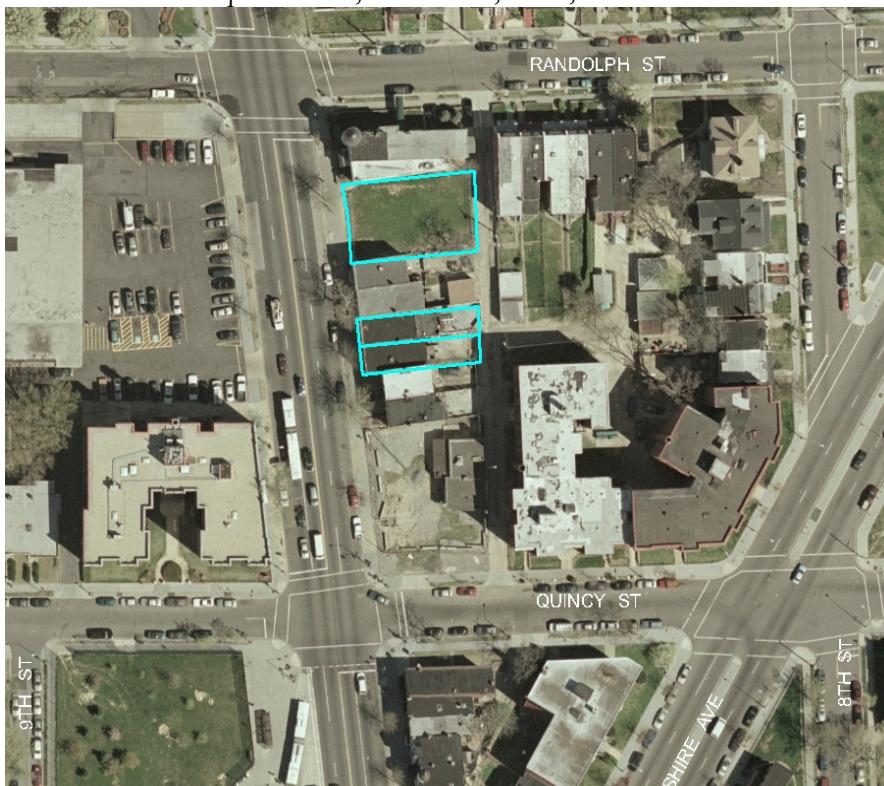
SOLICITATION FOR OFFERS

for the Development of

3813-3815 & 3825-29 Georgia Avenue NW

Washington, District of Columbia 20001

Square 3028, Lots 0051, 0052, and 0818



Issued by:

The Government of the District of Columbia
Office of the Deputy Mayor for Planning and Economic Development

John A. Wilson Building
1350 Pennsylvania Ave NW, Suite 317
Washington, D.C. 20004

<http://dcbiz.dc.gov/>

Responses due by: July 11, 2008

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

TABLE OF CONTENTS

1	Introduction	3
1.1	Purpose of Solicitation for Offers	4
1.2	Development Opportunity	5
1.3	Stakeholder Concerns and Requirements	6
2	Property Overview	8
2.1	Property Characteristics	8
2.2	Ownership and Property Conditions	8
2.3	Access and Visibility	9
2.4	Site Views from the western side of Georgia Avenue	10
2.5	Zoning and Land Use Guidance	11
3	Preferences	13
3.1	Development Plan Preferences	13
3.2	Local, Community, and Business Preferences	14
3.3	Pricing Proposal Preferences	15
4	Submission Requirements and Selection Process	16
4.1	Developer Submissions	16
4.2	Submission Requirements	18
4.3	Selection Process and Selection Panel	26
4.4	Project Review	27
4.5	Conflict of Interest	27
4.6	Selection Process Timetable	29
4.7	Pre-Offer Conference, Questions and Further Information	29
4.8	Award	29
5	Reservation of Rights and Miscellaneous Provisions	31
5.1	District Reservations	31
5.2	Notice of Modifications	31
5.3	Changes in Offeror Information	31
5.4	Ownership and Use of Offer(s)	31
5.5	Restricted Communications	32
5.6	Non-Binding	32
5.7	Confidentiality	32
5.8	Non-Liability	33
5.9	Other Limiting Conditions	33

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

1 Introduction

Great urban neighborhoods consist of diverse populations, extensive housing options, neighborhood amenities, pedestrian-oriented streetscapes, retail within short walking distances, distinctive public spaces and ubiquitous mass transit. To realize this vision of urban greatness, the Government of the District of Columbia (“District”) markets special projects that aim to achieve these goals and improve the quality of life for District of Columbia residents.

With this vision and these goals in mind, the District, through the Office of the Deputy Mayor for Planning and Economic Development (ODMPED), is pleased to issue this Solicitation for Offers (“Solicitation”) and invites development teams (“Offerors”) to respond. The District seeks a highly-qualified development team to plan, finance, build, and operate a project, or projects, on the following sites: a 5,757 square foot parcel located at 3825-29 Georgia Avenue NW, Washington, D.C. 20011 (“3825-29 Georgia Avenue”) and on a combined 3,792 square foot parcel located on 3813 and 3815 Georgia Avenue NW (“3813-3815 Georgia Avenue”). 3813 & 3815 Georgia Avenue NW and 3825-29 Georgia Avenue NW will collectively be referred to in this document as “both sites”. The mix of uses may include mixed-income housing, community-serving retail, and cultural amenities. Offerors are not limited by the uses described herein; however, Offerors are encouraged to design creative development programs that address the stated preferences of the District and the community stakeholders.

The below tables and map are based on the existing tax lots for both sites.

Development Opportunity A		
<u>Property Address</u>	<u>SSL</u>	<u>Size (SF)</u>
<u>3825-29 Georgia Avenue NW</u>	<u>3028 0818</u>	<u>5,757</u>
Total		5,757

Development Opportunity B		
<u>Property Address</u>	<u>SSL</u>	<u>Size (SF)</u>
<u>3813 Georgia Avenue NW</u>	<u>3028 0051</u>	<u>1,847</u>
<u>3815 Georgia Avenue NW</u>	<u>3028 0052</u>	<u>1,882</u>
Total		3,729

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development



1.1 Purpose of Solicitation for Offers

The ODMPED is responsible for implementing economic development initiatives and policies on behalf of the Mayor of the District of Columbia (the “Mayor”). ODMPED offers two (2) exciting development opportunities in this Solicitation and intends to identify one (1) or two (2) Offerors with whom to enter into negotiations for the disposition/lease and development of either one or both sites.

Highly-qualified development teams with experience in planning, financing, building, and operating small to medium scale mixed-use, residential, or retail use development projects and experience in working with multiple municipal entities and community stakeholders are strongly encouraged to respond to this Solicitation. Offerors will be expected to participate in transparent and collaborative selection and development processes involving the District, the ODMPED, and community stakeholders. Offers submitted in response to this Solicitation must comply with the preferences and requirements set forth in Sections 3 and 4. Offerors may contact the following ODMPED representative via email only for additional information on the 3825-29 Georgia Avenue Project or the 3813-3815 Georgia Avenue Project.

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

Bernard Guzman
Project Manager
Office of the Deputy Mayor for
Planning and Economic Development
The John A. Wilson Building
1350 Pennsylvania Avenue NW, Suite 317
Washington, D.C. 20004
Bernard.Guzman@dc.gov

Responses to this Solicitation are due by July 11, 2008 at 5:00 PM ET

1.2 Development Opportunity

Located in the northwest quadrant of Washington, DC, Petworth is a historic neighborhood oriented around Georgia Avenue comprised of medium-density residential and retail development. The Georgia Avenue corridor is defined by the District of Columbia's Office of Planning as extending along the Avenue between Euclid Street at the south to Decatur Street at the north.

The Petworth neighborhood, from where the Metro station derives its name, is the largest and most well-known of the nearby communities. Petworth is defined as roughly from 14th Street NW in the west, to Rock Creek Church Road in the east, to the south by Spring Road and Decatur Street in the north. The neighborhood is home to about 20,000 residents and existing retail establishments, mostly along Georgia Avenue. Several public schools are also part of the neighborhood as are locations for District social services.

The neighborhood developed as part of northward growing streetcar suburbs along the extension of Georgia Avenue from downtown Washington, DC, to Silver Spring, Maryland. The community prospered in the 1920's as a middle-class neighborhood with the construction of many houses of worship, schools and residences.

Both subject sites are located on the eastern side of Georgia Avenue between Quincy Street and Randolph Street N.W. 3825-39 Georgia Avenue is identified as Square 3028, Lot 0818 in the Petworth neighborhood in Washington, D.C. 3813-3815 Georgia Avenue is identified as Square 3028, Lots 0051 and 0052, respectively, also in Petworth. 3825-29 Georgia Avenue is a vacant square lot of approximately 5,757 square feet. 3813-3815 Georgia Avenue is a 3,729 square foot lot with two, two-story plus basement masonry buildings containing a combined 4,815 square feet of gross area above grade.

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

ODMPED WILL CONSIDER OFFERS FOR THE DISPOSITION OF EITHER 3825-29 GEORGIA AVENUE OR 3813-3815 GEORGIA AVENUE, OR BOTH. ODMPED WILL NOT CONSIDER OFFERS WHICH SEEK TO SEPARATE 3813 GEORGIA AVE FROM 3815 GEORGIA AVENUE OR OFFERS WHICH SEEK TO SEPARATE 3825 GEORGIA AVENUE FROM 3829 GEORGIA AVENUE.

1.3 Stakeholder Concerns and Requirements

The desires of community stakeholders who live near both sites are of critical importance to the District. Accordingly, the ODMPED has conducted in community outreach with key stakeholders, including ANC 4C08 and ANC 4C09 Commissioners Timothy Jones and Joseph Martin, Jr., respectively. In addition, ODMPED has participated in community outreach meetings at the Israel Metropolitan CME church, the Metropolitan Police Department's Regional Operations Command-North and has consulted the Georgia Avenue-Petworth Metro Station Area and Corridor Plan. From this outreach activity, the list of concerns and requirements below were compiled.

<u>Likes</u>	<u>Dislikes</u>
Sit Down Restaurant	Liquor stores
Book store	Laundromats
Coffee shop/doughnut shop/bakery	Check cashing stores
Drug store	Taverns
Dry cleaners	Adult entertainment
Video rental	Fast Food Restaurants
Bank/financial institution	
Mailing/packaging store/office supply store	
Flower Shop	
Card Shop	
Ice Cream store	
Clothing/Apparel	
Hardware	
Pet Supplies Store	

This list expresses the community's point of view on the development potential of both sites but is not intended to limit the scope and uses of proposed development plans. The ODMPED is open to all mixes of development programs and will consider all offers equitably. The community has expressed an interest in preserving the former Billy Simpson's restaurant at 3815 Georgia Avenue, and the ANC has submitted an application for historic landmark designation.

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development

Please note that all Offerors should consult Zoning Commission Order 06-48 or Sections 1327 through 1331 of the Zoning Regulations (11 DCMR), the Georgia Avenue Commercial Overlay District, for further information regarding desirable and undesirable uses for both sites.

Notwithstanding ODMPED's open approach, Offerors are expected to address stakeholder feedback and demonstrate creative ways to incorporate them into their development plans. Preferences will be given to proposals that provide retail space for District-based businesses, and particularly for businesses or business owners with a history in the Petworth neighborhood and its surroundings. Proposers are encouraged to consider the inclusion of retail space devoted to small and local retailers. **Please note that all Offerors should consult the final report for the Georgia Avenue Commercial Overlay District for further information regarding desirable and undesirable uses for both sites.**

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

2 Property Overview

2.1 Property Characteristics

Both subject sites are located on the eastern side of Georgia Avenue between Quincy and Randolph Streets N.W. The current characteristics of both sites and their development envelopes are further described below.

Common Street Address:	3825-3829 Georgia Avenue, NW Washington DC 20011
Legal Description:	Square 3028, Lot 0818
Condition:	Unimproved, fenced around perimeter
Topography:	Relatively level grassy soil at street grade
Approximate Size:	Combined 5,757 square foot lot
Zoning:	C-3-A
Permissible Uses Under Current Zoning:	Matter of right development for major office, residential, and retail uses
Range of Allowable Height Under Current Zoning:	65 feet, up to 90 feet if developed as a PUD**
Range of Allowable FAR Under Current Zoning:	2.5-4.0, up to 4.5 if developed as a PUD**
Maximum Lot Occupancy:	75% for Residential Use

Common Street Address:	3813-3815 Georgia Avenue, NW Washington DC 20011
Legal Description:	Square 3028, Lot s 0051 & 0052
Condition:	Two vacant, two-story plus basement buildings containing a combined 4,815 square feet of gross area.
Approximate Size:	Combined 3,729 square foot lot
Zoning:	C-3-A
Permissible Uses Under Current Zoning:	Matter of right development for major office, residential, and retail uses
Range of Allowable Height Under Current Zoning:	65 feet, 70 feet if 14 foot floor-to-ceiling height provided
Range of Allowable FAR Under Current Zoning:	2.5-4.0
Maximum Lot Occupancy:	75% for Residential Use

*It is the Offeror's responsibility to confirm all zoning requirements, laws, and regulations for both sites prior to submission.

**Zoning Commission is empowered to reduce the minimum size of a PUD to 5,000 square feet within the Georgia Avenue Commercial Overlay District.

2.2 Ownership and Property Conditions

Both sites are owned by the District and may be either conveyed or leased at fair market value to the selected Offeror(s) for the purposes of developing either or

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development

both sites into a residential, retail, or mixed-use project(s). Conveyance may be executed through a Land Disposition and Development Agreement (“LDDA”); similarly, a lease may be executed through a Ground Lease and Development Agreement (“GLDA”). The execution of either agreement will follow the selected Offeror’s achievement of several key pre-development milestones, such as, site plan approval, zoning approval, arrangement of financing and investment, and receipt of necessary construction permits.

Both sites will be conveyed or leased in “as-is” condition, without warranties. The District makes no representations regarding the character or extent of soil or subsurface conditions or the conditions, existence and location of utilities that may serve either or both sites. Each Offeror is encouraged to conduct its own research and due diligence and to draw its own conclusions concerning the conditions that may affect the methods or cost of development. Offerors shall be responsible for all pre-development expenses incurred to assess the conditions of both sites. Offerors are expected to submit a budget that incorporates contingencies to address unanticipated costs throughout the construction development process.

2.3 Access and Visibility

The location of both sites allows for excellent access from various parts of the District of Columbia and the broader metropolitan area. Patrons may access both sites in many ways (via automobile, bus, rail and taxi) and through several routes. Georgia Avenue, a highly-trafficked arterial that connects several wards, landmarks and neighborhoods in the District, serves both sites. More specifically, Georgia Avenue connects the two sites to Howard University (less than 1.25 miles to the south), Chinatown and Verizon Center (approximately 3 miles to the south), and Walter Reed Army Medical Center (less than 2.5 miles to the north).

Approximately 3.5 miles from both sites, I-295/I-395 provides easy access for those traveling from Northern Virginia. Similarly, New Hampshire Avenue, another highly-trafficked arterial that connects several parts of the District and virtually extends to Maryland, also serves the Property. With regard to mass transit options, the Georgia Avenue-Petworth Metro rail station on the yellow/green lines and several buses serve the immediate area and connects both sites to other places of interest, such as K Street, Georgetown, Union Station, and the National Mall.

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

2.4 Site Views from the western side of Georgia Avenue



Southeastern view of 3825-29 Georgia Avenue from the intersection of Georgia and Randolph.



Southeastern view of 3813-3815 Georgia Avenue from the intersection of Georgia and Randolph

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

2.5 Zoning and Land Use Guidance

Preference will be given to Offerors who maximize the development envelope of either or both sites. Both sites are zoned C-3-A, which permits matter-of-right development for major retail and office uses to a maximum lot occupancy of 75% for residential use, a maximum FAR of 4.0 for residential and 2.5 FAR for other permitted uses and a maximum height of sixty-five (65) feet, or ninety (90) feet if developed as a PUD with a FAR of 4.5. For buildings providing a minimum uniform 14-foot floor-to-ceiling height for the ground level, the maximum building height is increased to 70 feet.

Offerors should review all applicable District of Columbia Zoning regulations while preparing their offers. Please refer to Title 11 of the District of Columbia Municipal Regulations (“DCMR”) for a complete list of zoning provisions and requirements. Offerors may propose to develop either or both sites to conform to the existing zoning designation or to apply for a zoning variance, special exception or Planned Unit Development (PUD). Only 3825-3829 Georgia Avenue may be developed as a PUD due to minimum lot size requirements.

The subject sites are within the following approved and adopted land use and transportation plans:

- Georgia-Petworth Station Area and Corridor Plan, December 2004, provides framework to guide growth and development on Georgia Avenue.
- Great Streets Framework for Georgia Avenue and the Middle Georgia Avenue Petworth Plan, April 2007, provides schematic streetscape improvements and pedestrian safety designs for properties along Georgia from Otis to Webster Sts., NW. Both transportation plans will provide guidance for improving the public realm.

Offerors should consult each plan for direction and guidance in development initiatives.

An Offeror should detail its zoning strategy, including a detailed explanation and justification for any proposed variance from the residential requirements, and present an estimated schedule that fully describes each step in the approval process necessary for entitlements assumed in the offer. Proposed zoning strategies should be consistent with the Comprehensive Plan, Georgia Avenue Commercial Overlay District, and/or the relevant Small Area Plans.

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

Additional information regarding the Comprehensive Plan and the Georgia Avenue Commercial Overlay District may be obtained from the District's Office of Planning (<http://planning.dc.gov/planning>). Information regarding the zoning may be obtained from the Office of Zoning website (<http://dcoz.dc.gov>).

It should be noted that 3815 Georgia Avenue currently has an application pending before the District of Columbia's Historic Preservation Review Board for designation as a historic landmark. As such, ODMPED encourages the Offeror selected to develop 3813-3815 Georgia Avenue to coordinate with the District of Columbia's Historic Preservation Office as early as possible.

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

3 Preferences

3.1 Development Plan Preferences

Preference will be given to Offerors who:

3.1.1 Design development programs that:

- (1) comprehensively address stakeholder concerns and requirements listed in Section 1.3;
- (2) stimulate pedestrian activity and include vibrant streetscapes; and
- (3) include housing options, including affordable housing and community-serving retail.

3.1.2 Identify an LSDBE development team. Provide at least 20% equity and development opportunities for Local, Small and Disadvantaged Business Enterprises (“LSDBE”) and contracting opportunities for Certified Business Enterprises (“CBE”). All LSDBEs and CBEs referred to herein must be certified by the D.C. Department of Small and Local Business Development (“DSLBD”). Any offer that fails to contain an LOI, MOU, or other binding agreement with the 20% LSDBE equity requirement and at least 20% participation by LSDBE development partners will be deemed a non-responsive offer.

3.1.3 Maximize the overall economic benefit to the District, including:

- (1) Maximizing the development envelope such as through assemblage of adjacent land parcels or modification of current zoning;
- (2) Maximizing value to the District through land value proceeds (paid by Offeror to the District) and incremental property and sales taxes; and
- (3) Maximizing community benefits: affordable housing, cultural and neighborhood-serving amenities, and job creation and/or apprenticeship programs for Ward 4 residents.

3.1.4 Provide detailed plans on how Ward 4 residents will be trained and offered apprenticeships in connection to the Project

3.1.5 Provide Ward 4 businesses with opportunities to participate in the Project

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development

- 3.1.6 Submit with their offers development plans and conceptual design drawings that are sufficient in detail and may be easily evaluated by the Selection Panel.
 - 3.1.7 Consider all applicable Federal and District laws when preparing their development plans.
 - 3.1.8 Conduct thorough due diligence, including design and engineering for the Project. Offerors will be held accountable consistent with the design, cost, and pricing provided in submission of proposals.
 - 3.1.9 Offerors who include housing options, must include at least 30% affordable housing targeting the 30% and 60% AMI levels, 15% and 15% respectively. Affordability in perpetuity is preferred.
 - 3.1.10 Create a mix of residential unit types and sizes in proposed development plans, including one bedroom, two bedroom and three bedroom units.
- 3.2 Local, Community, and Business Preferences
Preference will be given to Offerors who:
- 3.2.1 Submit detailed apprenticeship programs that facilitate placing existing Ward 4 residents into employment opportunities within the Project. The commitment and strategy to develop and implement a local apprenticeship program shall be in accordance with D.C. Official Code §§ 32-1401 *et seq.* For more information on the District's Department of Employment Services (DOES) apprenticeship program, please visit the website below or contact DOES Office of Apprenticeship Information and Training.
<http://www.does.dc.gov/does/cwp/view,a,1232,q,618747.asp>
 - 3.2.2 Include Ward 4 neighborhood-based businesses. Evidence of the inclusion of such businesses shall be in the form of written confirmation from such neighborhood-based businesses which shall include the scope and details of the said businesses' involvement in the Project.
 - 3.2.3 Include copies of each binding Letter of Intent (LOI) between the lead developer and an LSDBE equity partner(s) and an LSDBE development partner(s).
 - 3.2.4 Include an LSDBE architect(s) on the development team and include copies of binding LOIs between the lead developer and the LSDBE architect(s).

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

3.2.5 Proposed development for 3813-3815 Georgia Avenue should preserve the former Billy Simpson's restaurant building at 3815 Georgia Avenue and its commercial row setting.

3.3 Pricing Proposal Preferences

Preference will be given to Offerors who:

3.3.1 Include pricing proposals that provide the greatest economic benefits to the District.

3.3.2 Provide documentation verifying financing and investment commitments.

3.3.3 Provide documentation verifying the timing of the availability of financing and investment.

3.3.4 Provide documentation describing the terms structuring the financing and investment agreements, including interest rates, terms, covenants, coverage ratios, and all other relevant information.

3.3.5 Demonstrate significant investments of "at risk" capital during the pre-development and development process.

3.3.6 Seek the least amount of subsidy (either through a reduction in fair market value or through other District or federal public financing tools) to fill anticipated financing and/or investment gaps in the Project capital structure.

3.3.7 Provide funding plans, including sources and uses tables and multi-year pro-forma development budgets.

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

4 Submission Requirements and Selection Process

4.1 Developer Submissions

4.1.1 All Offerors shall submit with their response to the Solicitation to the District a deposit in the amount of Twenty-Five Thousand dollars (\$25,000) for each site, in the form of a standby, irrevocable, letter of credit. The deposit shall secure an Offeror's bid in accordance with this Solicitation and will be held by the District until a selection of a successful offer(s) is determined. If an Offeror's proposal is not selected, then the letter of credit shall be returned to such Offeror. If an Offeror's proposal is selected, then the letter of credit will be considered a non-refundable deposit until the LDDA or GLDA is executed, which upon determination of the purchase price. ODMPED will require an additional deposit to be held as security to ensure performance of the terms of the LDDA.

4.1.2 A pre-proposal conference and site visit will be held in accordance with the schedule in Section 4.6. For those who intend to respond to this Solicitation, attendance at the pre-proposal conference and site visit is strongly encouraged. The purpose of the conference and site visit is to provide a forum for all interested parties to network and discuss the Project. If ODMPED determines, in its sole discretion, that any discussions or questions at the pre-proposal conference require additions and/or deletions to this Solicitation, or any other related document, the ODMPED, in its sole discretion, will make such additions and/or deletions in writing and post them on the ODMPED's website, www.dcbiz.dc.gov.

(1) At a minimum, all offers shall address all preferences stated in Section 3 and all requirements stated in this Section 4. Offers submitted without addressing all such items may, in ODMPED's sole discretion, be deemed incomplete and withdrawn from award consideration.

(2) All offers

- shall be typed in 12-point font on 8½" x 11" standard letter-size paper
- shall have material on one (1) side only
- shall be bound on the long side
- shall have tabs to separate sections
- shall not exceed 25 pages, not including credit references, LOIs, MOUs, renderings, excel-based worksheets/models, tables, charts, etc.

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

- (3) Offer materials will not be returned.
- (4) Each Offeror must submit ten (10) printed, bounded copies to the ODMPED representative listed below by **5:00 PM ET on July 11, 2008**:

Bernard Guzman
Project Manager
Office of the Deputy Mayor for
Planning and Economic Development
The John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 317
Washington, D.C. 20004
bernard.guzman@dc.gov

- 4.1.3 While the District, through the ODMPED, may enter into negotiations with an Offeror(s) based on their offers submitted in response to this Solicitation, this Solicitation does not commit the ODMPED or the District to select any Offerors or to enter into negotiations with any Offerors that may respond. The ODMPED, in its sole discretion, reserves the right to reject any offer it deems incomplete or unresponsive to the submission requirements, to amend this Solicitation, or to reject all offers and re-issue a Solicitation at a later date.
- 4.1.4 After review of one or more offers, the ODMPED, in its sole discretion, may request additional information from some or all Offerors.
- 4.1.5 Team members may participate in submissions from more than one Offeror. If an Offeror wishes to change the composition of the proposed development team at any time in the selection process after it has submitted its offer to the ODMPED, the Offeror must notify the ODMPED in writing. The ODMPED reserves the right to evaluate the proposed change to the development team and eliminate the Offeror from further consideration, in ODMPED's sole discretion. The ODMPED will require similar notification and approval rights of any change to the development team following the award, if any.
- 4.1.6 An Offeror may submit multiple development plans and pricing proposals, which collectively shall be considered a single offer for evaluation purposes.

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development

4.1.7 An Offeror may submit concurrently for this RFP as well as the Great Streets Neighborhood Retail Tax Increment Financing Notice of Funding Availability. For further information regarding this financing tool, please contact Derrick Woody at 202-727-2981 by phone or at Derrick.Woody@dc.gov by email.

4.2 Submission Requirements

Offerors shall respond to each item included in this Section 4.2 in the order it is presented below and separate each item with tabs marked to indicate the section number. Offerors should include site plans, tables, charts, and any other applicable documents, to the extent possible.

4.2.1 Executive Summary

The Offeror shall provide a summary with a focus on the Offeror's vision for either or both sites. While the Summary will not be a formal evaluation factor, it will be used as part of an integrated assessment of the Offeror's qualifications. In its executive summary, an Offeror shall address how the development will benefit the residents of Ward 4; shall articulate the Offeror's vision for either or both sites; shall discuss how well the project on either or both sites fits into the neighborhood fabric; and shall illustrate the types of synergies it will create for the neighborhood.

4.2.2 Team Members

An Offeror shall identify the following key team members of the development team: master developer (firm or joint venture partners), LSDBE equity and development partners, master plan architect, financing team (proposed construction and permanent lenders, major investors, and other key consultants, if any related to the financing plan), and legal counsel. No other team members should be identified. An Offeror shall include:

- (1) Name, address, telephone number, and fax number for each team member;
- (2) Each principal, partner, or entity that composes each team member and such team member's roles or titles within the entity comprising the Offeror;
- (3) Name, address, telephone number, fax number, and e-mail address of the representative authorized to act on behalf of the Offeror,

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development

who will be available to respond to questions or requests for additional information;

- (4) Any affiliation or relationship between any of the members of the Offeror and any development company, parent company, or subsidiary;
- (5) Any personal or professional relationship among or between any members of the Offeror and any person working for, appointed to a position in, or elected to an office of the District or any entity for which there may be a conflict of interest or the appearance of a conflict. The District, in its sole discretion, reserves the right to determine a conflict of interest or the appearance thereof;
- (6) A list of the professionals the Offeror will be employing or retaining for this project. For each professional firm, Offeror should include a description of the staff capabilities, the resumes of all professional staff who will be working on this project, a description of their role on this project, and their past relevant experience;
- (7) Satisfactory evidence with respect to the Offeror and its team members that all tax liabilities and other government impositions are current and that there is no ongoing litigation in which the District is a party that relates to any team member as the Offeror or to any other entity or individual having a controlling interest in the entity (or entities) that comprise the Offeror (or, if such litigation exists, the name and civil action number of such litigation and a description of the subject matter of such litigation); and
- (8) A summary of experience working with community groups, institutions, or the District during the planning and development processes; a summary of experience developing affordable housing, including descriptions of the projects, community organizations involved, and the consensus-building process utilized to incorporate the community's input into the development plan.

4.2.3 Qualifications and Experience

- (1) Offerors shall identify three (3) to five (5) relevant projects that demonstrate the Offeror's (including team members') primary

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development

involvement in and leadership of successful medium-to-large scale developments in urban settings (preferably in the District of Columbia) involving public-private partnerships, and joint ventures/partnerships with LSDBE equity and development partners;

(2) For each relevant project, Offeror shall identify the following:

- Development team name
- Project title
- Location/address of the project
- Contracting agency/company, if applicable
- Description of the project, including development envelope and uses
- Offeror's role and responsibilities for the project and structure of the development team, including joint venture description and/or documents, if applicable
- Period of performance
- Estimated total development cost at time of award or start of the Project, actual total development cost, including all changes and exercised options
- Originally projected completion date, current or actual completion date
- The name and contact information for the owner, the principal, the partner, the general contractor and design architect's name and a description of each of the foregoing parties' role in the project
- Name and telephone number of persons familiar with the project who may provide performance letters of recommendation and respond to inquiries from the District
- Illustrative materials that will help the District to evaluate the caliber, innovation and relevant experience of the development team;

(3) In a table format, offers shall include projects underway, including financing and investment partners, status (% completed to date), completion guarantees provided, size, scope, total development costs, capital structure sources and uses schedule, and other meaningful project-related information;

(4) Each offer shall include an organization chart and a summary of qualifications of the team's senior-level staff who will be directing

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development

this project, including a description of their roles and relevant experience;

- (5) Each offer shall include the status of the Offeror organization (whether a corporation, a non-profit or charitable institution, a partnership, a limited liability corporation, a business association, or a joint venture) indicating under which laws it is organized and operating, and a brief history of the organization and its principals. For any entity required to file reports in the jurisdiction of its formation, include a certificate of good standing for such jurisdiction and a certificate of good standing showing that it is registered in the District of Columbia;
- (6) Each offer shall include a copy of any written agreement or document creating, or other organizational document(s) for, any entity responding to this Solicitation. The principals, partners, or joint-venture partners who are part of the Offeror team must be eligible to transact business with the District and in the District of Columbia;
- (7) Each offer shall include a statement regarding any debarments, suspensions, bankruptcy or loan defaults on real estate development projects and/or government contracts of Offeror or any member of the development team;
- (8) Each offer shall include references for the Offeror and its team members, including names, addresses, and telephone numbers. References should be prepared to respond to inquiries regarding the design, financing, and development of prior projects;
- (9) Offerors may include other relevant information that they believe will assist the ODMPED in evaluating the capabilities of the Offeror, the design architect, and any other team member who will be participating in the development. The ODMPED may request additional information from the authorized representative, if deemed necessary, in ODMPED's sole discretion, to facilitate the evaluation of an Offeror's submissions.

4.2.4 Project Implementation Strategy

- (1) Offerors shall identify and describe any possible difficulties implementing the Project and shall identify and describe possible

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development

solutions and approaches that would allow for successful implementation;

- (2) Offerors shall describe the compatibility of their development plans with the Downtown District zoning parameters and any Small Area and Comprehensive Plans;
- (3) Offerors shall describe any proposed zoning changes and the time required to achieve zoning change approvals;
- (4) Each Offeror shall illustrate a detailed implementation schedule (including phasing) from award to ground breaking to occupancy to stabilization. Furthermore, schedules shall include more detailed timetables and milestones for the first 24 months of the Project following award, focusing on timing for development programming, community engagement, adjacent parcel assemblage and other relevant pre-development activities;
- (5) Offerors shall describe their understanding of the East End sub-market area;
- (6) Offerors shall acknowledge that they will be required and demonstrate their willingness to provide financial guarantees that insure the implementation of their development plans;
- (7) Offerors shall demonstrate their willingness to invest at-risk capital in the Project, including pre-development expenditures;
- (8) Offerors shall describe their approaches and strategies to engage the community to ensure meaningful involvement in the development process, to reach ultimate consensus around development plans, and to mitigate the Project having any negative impacts of the surrounding community; and
- (9) Offerors shall describe their approaches and strategies to operate the Project following occupancy.

4.2.5 Financial Capacity and Framework

- (1) Each Offeror shall include a description of the financial capacity of Offeror and its team members, including, but not limited to,

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development

audited financial statements (balance sheets, profit and loss statements, statements of cash flows);

- (2) Each Offeror shall include descriptions of the nature and share of each team member's financial investment in the acquisition and development of either or both properties;
- (3) Each Offeror shall include proposed financial structures between the Offeror and the District. The Offeror should assume the following:
 - The parcels owned by the District will be conveyed to the Offeror at a price negotiated with the District. In general, the parcel purchase price should be assumed to be equal to the fair market value of the parcel, subject to adjustment as determined in ODMPED's sole discretion.
 - In determining economic feasibility, Offerors shall take into account all available subsidies from sources other than the District government and are responsible for obtaining those subsidies to the greatest extent possible.
 - The conveyance will be in the form of a deed or a ground lease.
 - If the conveyance is pursuant to a ground lease, the cost of the ground lease will be negotiated using the same approach as the sales price negotiation described above.
 - The purchase price will be due and paid in full at settlement, although ODMPED, in its sole discretion, will consider alternate payment structures proposed by an Offeror.
- (4) Each Offeror shall include a description of:
 - Desired financial returns, including the internal rate of return for each proposed land use.
 - Proposed investment of Offeror equity into the Project.
 - If an alternate purchase price payment structure is proposed, then the methodology for such proposed structure including, if it involves future payments, the security to be provided to the District for such future payments.
 - If ground lease is proposed, the methodology for determining the rental payment due under the ground lease;

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

- (5) Each Offeror shall include a proposed financing strategy for either or both Projects from award to groundbreaking to occupancy to stabilization. Such strategy shall include sources and uses of funds and types of financing and investment and shall include sufficient detail to facilitate the Selection Panel's evaluation of the proposed financing strategy. Financing strategies shall include:
 - An estimate of proposed pre-development costs and statement of capacity to carry those costs, how those costs will be paid for, and how such costs will be factored into the financing of either or both Projects.
 - Statement of the proposed financial structure, including penalties for lack of performance.
 - Satisfactory evidence of the Offeror's ability to secure financing for either or both Projects.
 - A cash flow schedule that supports the entire development timeline;
- (6) Each Offeror shall include an excel-based, fully-manipulable pro-forma model with detailed underlying assumptions (submitted on CD-ROM) that estimates investment returns including, net present value, internal rate of return, return on equity and return on cost;
- (7) Each Offeror shall include a detailed development budget (submitted on CD in Excel) for the proposed development plans that includes a summary of the dollar per square foot breakdown of each line item;
- (8) Each Offeror shall include financing and investment references. References must be prepared to discuss the nature and performance of the prior financing and investment relationships; and
- (9) Offers shall not include funds from the District operating or capital budget (unless appropriated for such purpose on a multi-year basis) or unidentified Federal funding in the Offeror's funding plan.

4.2.6 LSDBE and CBE Participation and First Source Hiring

- (1) Offerors shall include descriptions of LSDBE equity and development participation in the Project and shall demonstrate Offeror's firm commitment to meet or exceed a 20% LSDBE

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

equity and a 20% development participation requirement. The Offeror must submit with its offer an LOI, Memorandum of Understanding (MOU) or other binding agreement with the 20% LSDBE equity and development partner(s) that at a minimum:

- Identifies the LSDBE equity and development partner(s)
- States the percentage of equity and development participation of each LSDBE partner
- Describes the role and scope of work of each LSDBE partner
- Includes anti-dilution language regarding equity and development participation for the benefit of the LSDBE partner(s) and to be applied at all stages of the Project

Any offer that fails to contain an LOI, MOU, or other binding agreement with 20% LSDBE equity and at least 20% participation by an LSDBE development partner will be deemed a non-responsive offer;

- (2) Each Offeror shall include descriptions of CBE contracting participation in either or both Projects and shall demonstrate Offeror's commitment to meet or exceed a 40% CBE contracting and procurement requirement; and
- (3) Each Offeror shall include a detailed plan for hiring that lists specific efforts to recruit Ward 4 and District of Columbia residents at large for newly created jobs.

Prior to and as a condition of executing an LDDA or GLDA, the selected Offeror will be required to sign a Certified Business Enterprise Utilization and Participation Agreement with the DSLBD that outlines the specific contracting requirements and the specific efforts the selected Offeror must take to fulfill these requirements.

The selected Offeror also will be required to sign a First Source Hiring Agreement with the DOES.

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

4.2.7 Affordable Housing (if residential options are proposed)

- (1) Each Offeror shall describe its development plan's impact on the District's affordable housing goals and other economic development objectives;
- (2) Each Offeror is required to describe the administration of any affordable residential units the Offeror (or a member(s) of the development team) currently operates or, if it has no such current operations, the Offeror may describe its proposed operation and administration of affordable residential units in either or both Projects. An Offeror with current affordable housing operations may also include its proposed operation and administration of affordable residential units in either or both Projects. All proposed affordable units shall be provided in accordance with an Affordability Covenant provided by the ODMPED.
- (3) Offerors shall describe integrated approaches to its placement of affordable units within their proposed plans. More specifically, affordable units must be dispersed, not clustered, throughout the residential component(s) of either or both Projects and mixed with market rate units.

Market rate and/or affordable residential units targeting senior citizens are considered an eligible residential use and must conform to the affordability standards for other types of residential units. Each Offeror should use the most up-to-date Department of Housing and Urban Development (HUD) income data in making its proposal.

4.3 Selection Process and Selection Panel

- 4.3.1 The Selection Panel will evaluate responses to this Solicitation for completeness, feasibility, creativity, and measure of economic value created.
- 4.3.2 The ODMPED will determine, in its sole discretion, whether each offer received in response to this Solicitation is complete according to the guidelines set forth herein. For any offer that is considered to be incomplete, the Offeror will be notified in writing within thirty (30) business days after the submission deadline. The decision of the

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development

ODMPED in this regard is final and will be explained to the Offeror upon request.

4.3.3 A Selection Panel will be established to review and evaluate the Offers submitted in response to this Solicitation and to select, in its sole discretion, one (1) or more of the Offers, or if it determines in its sole discretion none of the Offers. The Selection Panel may consult with the ODMPED consultants for technical assistance.

4.3.4 Offerors shall present their offers to the Selection Panel and the community. The community may provide feedback to the Selection Panel for its consideration. The Selection Panel will evaluate each offer based on the criteria set forth in this Solicitation. The Selection Panel may request that one (1) or more Offerors modify their offers, provide additional information or provide a “best and final offer” for the Selection Panel’s review. Following such request, if any, the Selection Panel will select, in its sole and absolute discretion, one (1) or more offers (or if it determines in its sole discretion none of the Offers), as modified or otherwise, to recommend to the Mayor, who, in his absolute discretion, may accept the Selection Panel’s recommendations.

4.3.5 Upon recommendation by the Selection Panel, and if accepted by the Mayor, the ODMPED shall notify, in writing, the first selected Offeror of its selection.

4.4 Project Review

Required design review meetings will be scheduled after selection between the ODMPED, the Office of Planning and the selected Offeror and its consultants. In addition, the selected Offeror(s) must arrange and participate in at least one (1) community forum held in the vicinity of the project site prior to Offeror’s or Offerors’ preparation of final building permit drawings. During the duration of the development process, the selected Offeror(s) also will be expected to participate in periodic meetings with the community to provide updates on the progress of the development and to respond to questions from the community.

4.5 Conflict of Interest

In its response to this Solicitation, an Offeror or Offerors must represent and warrant the following to the District:

4.5.1 The offer has been developed and provided independently and without consultation, communication or other interaction with any other

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development

competitor for the purpose of restricting competition related to this Solicitation or otherwise.

- 4.5.2 No person or entity employed by the District or otherwise involved in preparing this Solicitation on behalf of the District (i) has provided any information to Offeror which was not also available to all Offerors responding to this Solicitation, (ii) is affiliated with or employed by Offeror or has any financial interest in Offeror, (iii) has provided any assistance to Offeror in responding to this Solicitation, or (iv) will benefit financially if Offeror is selected in response to this Solicitation.
- 4.5.3 The Offeror(s) has not offered or given to any District officer or employee any gratuity or anything of value intended to obtain favorable treatment under this Solicitation or any other solicitation or other contract.
- 4.5.4 Offeror(s) has not taken any action to induce any District officer or employee to violate the rules of ethics governing the District and its employees.
- 4.5.5 Offeror(s) has not and shall not offer, give or agree to give anything of value to any District employees, agents, job shoppers, consultants, managers or other person or firm representing the District, or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing. Any such conduct shall be deemed a violation of this Solicitation and shall automatically disqualify such Offeror's or Offerors' offer from consideration under this Solicitation. As used herein, "anything of value" shall include but not be limited to any (a) favors, such as meals, entertainment, transportation (other than that contemplated by this Solicitation, if any, or any other contract with the District), etc., which might tend to obligate a District employee to Offeror(s), and (b) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment, or business opportunity; provided that such term shall not include work or services rendered pursuant to any other valid District contract.
- 4.5.6 The Offeror(s) shall report to the District directly and without undue delay any information concerning conduct which may involve: (a) corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority; or (b) any solicitation of money, goods, requests for future employment or benefit of thing of value, by or on behalf of any government employee, officer or public official, any Offeror(s) employee,

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development

officer, agent, subcontractor, or labor official, or other person for any purpose which may be related to the procurement of this Solicitation by Offeror(s), or which may affect performance in response to this Solicitation in any way.

4.5.7 Neither Offeror or any subcontractor or affiliate thereof, nor any employee of any of them, shall retain any material or items of any kind salvaged from either property or site as memorabilia, souvenirs or otherwise.

4.6 Selection Process Timetable

The selection process will follow the schedule outlined below. All offers must be submitted to the ODMPED by **July 11, 2008 at 5:00 PM**.

SELECTION PROCESS TIMETABLE (SUBJECT TO CHANGE)	
Issuance of Solicitation	April 25, 2008
Pre-Offer Conference and Site Visit	May 7, 2008
Proposal Due Date (at 5:00 PM ET)	July 11, 2008
ODMPED Determination of Responsive Offers	July 18, 2008
Meetings with Offerors	August 1, 2008
Selection of Offerors for Short List (if necessary)	August 2008
Meetings with Short List Offerors	September 2008
Tours of Offerors' Projects	September 2008
Offerors' Presentations to the Community	September 2008
Selection of Offeror	October 2008

4.7 Pre-Offer Conference, Questions and Further Information

Any questions regarding this Solicitation should be submitted via e-mail only to bernard.guzman@dc.gov. Responses to questions, and other clarifications, will be emailed to all Offerors.

4.8 Award

4.8.1 Following receipt of written notification from the ODMPED of the selection ("Selection Notification"), the selected Offeror(s) shall execute a right of entry agreement with the District to allow the selected Offeror(s) to begin its due diligence and site studies.

4.8.2 The District, through ODMPED, and the selected Offeror(s) shall negotiate an LDDA or GLDA, which shall incorporate the requirements contained in this Solicitation and other such terms as agreed to by ODMPED and the selected Offeror(s). Upon completion of the parties'

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development

negotiation, ODMPED will recommend such Offeror(s), based on the terms agreed to in the proposed LDDA or GLDA, to the Mayor. If the Mayor agrees with ODMPED's recommendation, then the Mayor, in his sole and absolute discretion, may submit the proposed LDDA or GLDA, or the terms thereof, to the Council of the District of Columbia ("Council") as the method of conveying or leasing either property to the Offeror(s). IN ACCORDANCE WITH D.C. OFFICIAL CODE § 10-801 (2006 SUPP.), THE DISTRICT IS NOT AUTHORIZED TO CONVEY OR LEASE EITHER PROPERTY UNLESS AND UNTIL FIRST AUTHORIZED BY THE COUNCIL.

- 4.8.3 If the District and the selected Offeror are unable to agree on the final terms of an LDDA or GLDA within one hundred eighty (180) days after the date of the Selection Notification, ODMPED, in its sole and absolute discretion, may terminate negotiations and select a different Offeror from among the Offerors who submitted offers, re-issue this Solicitation or take other measures as it deems reasonable, appropriate or necessary.
- 4.8.4 Once approved by Council, the District and the selected Offeror(s) shall execute the proposed LDDA or GLDA, whereupon Offeror(s) shall submit to the District a deposit in an amount to be determined, in the form of a standby irrevocable letter of credit. The deposit shall secure Offeror's performance in accordance with the LDDA or GLDA and will be held by the District through the Offeror's or Offerors' successful completion of construction of either or both Projects. The District may request Offeror(s) to increase the amount of the letter of credit or otherwise increase the deposit at the time of settlement on the conveyance of either Property to further insure Offeror's successful completion of construction of the Project. An executed payment and performance guaranty, which will guaranty completion of either or both Projects from the members or owners of the Offeror(s), or other individuals or entities satisfactory to the ODMPED, in its sole discretion, also will be required at settlement.
- 4.8.5 In the event either Property is conveyed, settlement on the District's sale to Offeror(s) shall be held no later than 12 months after the date of execution of the LDDA, provided, however, that settlement shall not be held until Offeror(s) has received design review approval from the District and has obtained all permits required under Section 105A of Title 12A of the DCMR to commence construction (and such other conditions as may be agreed between the parties). In no event will settlement, or any conveyance, occur after the expiration of Council authorization to dispose of either or both Properties by Resolution pursuant to §10-801 of the DC Official Code.

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

5 Reservation of Rights and Miscellaneous Provisions

5.1 District Reservations

The District reserves the right to:

- Cancel or withdraw the Solicitation prior to or after the submission deadline
- Modify or issue clarifications to the Solicitation prior to the submission deadline
- Reject any submission it deems incomplete or unresponsive to the submission requirements
- Consider a submission that is in noncompliance with the submission requirements
- Reject all submissions that are submitted under the Solicitation
- Modify the deadline for submissions or other actions

The District may exercise one or more of these rights, in its sole and absolute discretion

5.2 Notice of Modifications

The District will post on its website (<http://dcbiz.dc.gov>) notices or information regarding cancellations, withdrawals, modifications to deadlines, and other modifications to this Solicitation. Offerors are responsible for checking the website for any such notices and information, and the District shall have no duty to provide direct notice to Offerors.

5.3 Changes in Offeror Information

If information provided in a submission changes (e.g., change or addition to any of the Offeror's or Offerors' team members or new financial information), then the Offeror(s) shall provide updated information in the same format for the appropriate section of the Solicitation and the District will consider the modified submission(s). Offerors may not change the composition of their teams at any time without prior District approval, in its sole discretion. However, the District shall allow short-listed Offerors to (i) add additional LSDBE parties to their teams or (ii) increase the level of LSDBE equity and/or development participation on their teams.

5.4 Ownership and Use of Offer(s)

All offers shall be the property of the District. The District may use any and all ideas in any offer, whether the offer is selected or rejected.

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for
Planning and Economic Development

5.5 Restricted Communications

Upon release of this Solicitation and until selection of Offerors, Offerors shall not communicate with ODMPED staff about the Solicitation or issues related to the Solicitation except as authorized in this Solicitation.

5.6 Non-Binding

The selection by the District of Offerors indicates only an intent by the District to negotiate with the Offeror(s) and the selection does not (i) constitute a commitment by the District to execute any agreement with the Offeror(s) and (ii) confer onto Offeror(s) any property right, interest or expectancy.

5.7 Confidentiality

Offers and all other information submitted in response to this Solicitation are subject to the District's Freedom of Information Act ("FOIA") under D.C. Official Code § 2-531 et seq., which generally mandates the disclosure of documents in the possession of the District upon the request of any person, unless the content of the document falls within a specific exemption category. An example of an exemption category is "trade secrets and commercial or financial information obtained from outside the government, to the extent that disclosure would result in substantial harm to the competitive position of the person from whom the information was obtained."

If an Offeror(s) provides information that it believes is exempt from mandatory disclosure under FOIA ("exempt information"), the Offeror(s) shall include the following legend on the title page of the submission:

THIS PROPOSAL CONTAINS INFORMATION THAT IS EXEMPT FROM MANDATORY DISCLOSURE UNDER THE DISTRICT'S FREEDOM OF INFORMATION ACT ("FOIA").

In addition, on each page that contains information that the Offeror(s) believes is exempt from mandatory disclosure under FOIA, the Offeror shall include the following separate legend:

THIS PAGE CONTAINS INFORMATION THAT IS EXEMPT FROM MANDATORY DISCLOSURE UNDER THE DISTRICT'S FREEDOM OF INFORMATION ACT ("FOIA").

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development

On each such page, the Offeror(s) shall also specify the exempt information and shall state the exemption category within which it believes the information falls.

ALTHOUGH THE ODMPED GENERALLY WILL ENDEAVOR NOT TO DISCLOSE INFORMATION DESIGNATED BY THE OFFEROR AS EXEMPT INFORMATION, THE ODMPED WILL INDEPENDENTLY DETERMINE WHETHER THE INFORMATION DESIGNATED BY THE OFFEROR INDEED IS EXEMPT FROM MANDATORY DISCLOSURE. MOREOVER, EXEMPT INFORMATION MAY BE DISCLOSED BY ODMPED, AT ITS DISCRETION, UNLESS OTHERWISE PROHIBITED BY LAW, AND THE DISTRICT SHALL HAVE NO LIABILITY RELATED TO SUCH DISCLOSURE.

5.8 Non-Liability

By participating in the Solicitation process, the Offerors agrees to hold the District, its officers, employees, agents, representatives, and consultants harmless from all claims, liabilities, and costs related to all aspects of this Solicitation. Under no circumstances shall the District be liable for any real estate brokerage commissions, finder's fees or other forms of compensation related in any way to activities undertaken by any person as a result of this Solicitation.

5.9 Other Limiting Conditions

5.9.1 If at any time after the District selects an Offeror(s), executes an LDDA or GLDA with the Offeror and the Offeror(s) decides not to proceed, then the Offeror(s) must notify the District in writing and provide reasons for its decision. The selected Offeror(s) wishing to withdraw may be subject to the loss of part or all of the deposit posted at the time of award and may be responsible for certain costs previously waived by the District. If the District is unable to deliver either Property or its contribution to any joint venture, all deposits and any interest earned will be returned to Offeror(s) and the District shall be released from any and all further liability.

5.9.2 This Project is expected to "stand alone"; thus, the Offeror(s) is prohibited from cross collateralizing and cross defaulting the project with any other assets. Moreover, the Offeror(s) is prohibited from assigning, pledging, hypothecating or otherwise transferring its interest in the net cash flows or ownership of the Project in part, or in its entirety, without prior District approval. Any additional debt shall require prior written District approval. This limitation shall apply until final completion of both or either Project.

GOVERNMENT OF THE DISTRICT OF COLUMBIA



Office of the Deputy Mayor for Planning and Economic Development

- 5.9.3 The Offeror(s) shall disclose all development management fees, general contracting fees, construction management fees, property management fees, and other fees that are paid to the Offeror(s) or affiliated parties during the life of this or either Project.
- 5.9.4 The District has the right to begin negotiations with the next preferred Offeror(s) in the event that an LDDA or GLDA cannot be executed within the allotted period of negotiations with a prior selected Offeror(s). The District may terminate, in its sole and absolute discretion, negotiations with any Offeror(s) if such Offeror(s) introduces comments or changes to an LDDA or GLDA that are inconsistent with its previously submitted offer materials.
- 5.9.5 In the course of best and final negotiations between the parties, the District reserves the right, in its sole discretion, to make and memorialize modifications to any offer in the form of a Memorandum of Understanding between the District and the Offeror(s).
- 5.9.6 The District is subject to various laws, rules, policies and agreements that impose legal and ethical constraints upon current and former District employees and consultants with regard to post-employment restrictions vis a vis such employee's or consultant's involvement in District-led projects. In particular, restrictions include:
- (1) All Offerors, its members, agents, or employees, are prohibited from: (i) making offers of employment, (ii) conducting any negotiations for employment, (iii) employing or, (iv) entering into contracts of any sort, with current employees, consultants, or contractors to the District, who are personally and substantially involved in any aspect of this Project whatsoever.
 - (2) Offerors must disclose in their initial Offers, the names of any member, employee, contracted agent, or consultant who within three (3) years prior to the publication of this Solicitation, were District employees, consultants, or contractors to the District. On a going forward basis, Offerors will be required to provide the District with regular and periodic notices of any and all new hires of employees, contracted agents, or consultants within five (5) days of any such hire.

GOVERNMENT OF THE DISTRICT OF COLUMBIA



**Office of the Deputy Mayor for
Planning and Economic Development**

- (3) This Section 5.9.7 shall apply to all Offerors during the conduct of this competition, and will subsequently apply to a selected Offeror until such time as final completion of development of the Project.
- (4) Required disclosures and notices notwithstanding, failure to comply with any obligation described in this Section 5.9.7 may result, in the District's sole and absolute discretion, in the Offeror's disqualification from consideration under this Solicitation, the rescission of the Offeror's award, and/or termination of any agreement between the Offeror and the District.